

ELLEN F. ROSENBLUM  
Attorney General  
NICK M. KALLSTROM #050023  
Assistant Attorney General  
Department of Justice  
1162 Court Street NE  
Salem, OR 97301-4096  
Telephone: (503) 947-4700  
Fax: (503) 947-4794  
Email: Nick.M.Kallstrom@doj.state.or.us

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ALLEN T. REED,

Petitioner,

v.

BRANDON KELLY,

Respondent.

Case No. 2:21-cv-01499-HZ

ANSWER

Respondent answers the Petition for Writ of Habeas Corpus and responds to this Court's Order, dated January 5, 2022, to show cause why the relief prayed for should not be granted and to state the true cause of petitioner's detention and whether remedies available to petition in the courts of the State of Oregon have been exhausted, as follows:

**I.**

Petitioner is in the custody of the Oregon Department of Corrections (ODOC) pursuant to two Judgments, each dated November 25, 2013, from Lane County Circuit Court Case Nos. 201313457 and 201314881, after convictions for one count of Kidnapping in the Second Degree – Constituting Domestic Violence, one count of Rape in the First Degree –

Constituting Domestic Violence, one count of Sexual Abuse in the First Degree – Constituting Domestic Violence, one count of Sexual Abuse in the Second Degree – Constituting Domestic Violence, one count of Sodomy in the First Degree – Constituting Domestic Violence, one count of Coercion – Constituting Domestic Violence, one count of Felon in Possession of a Weapon, and one count of Theft in the First Degree. Resp. Ex. 101. Following a jury trial, petitioner was sentenced to 70 months of imprisonment on the Kidnapping conviction, to 144 months of imprisonment on the Rape conviction (the sentence on the Sexual Abuse in the Second Degree conviction is merged with this sentence), to 70 months of imprisonment on the Sexual Abuse in the First Degree conviction, to 100 months of imprisonment on the Sodomy in the First Degree conviction, to 30 months of imprisonment on the Felon in Possession of a Weapon conviction, and to 18 months of imprisonment on the Theft conviction. *Id.* The court ordered that the sentences on the Kidnapping, Rape, Sodomy, Felon in Possession of a Weapon, and Theft to be served consecutively. *Id.* In sum, petitioner was sentenced to 344 months of imprisonment. *Id.*

## II.

1. Petitioner directly appealed his convictions, but the Oregon Court of Appeals affirmed without opinion, *State v. Reed*, 274 Or. App. 507, 364 P.3d 47 (2015), and the Oregon Supreme Court denied review. 358 Or. 611, 369 P.3d 386 (2016). The record from the direct appeal is attached as Resp. Ex. 105-109.

2. Petitioner filed a petition for post-conviction relief in *Reed v. Kelly*, Marion County Circuit Court Case No. 17CV13538, but the court denied relief. Resp. Ex. 132. The Oregon Court of Appeals affirmed in its written opinion. *Reed v. Kelly*, 311 Or. App. 397, 488 P.3d. 824 (2021). The Oregon Supreme Court denied review. 368 Or. 637, \_\_\_ P.3d \_\_\_ (2021). The record from the post-conviction appeal is attached as Resp. Ex. 133-139.

3. Petitioner filed a successive petition for post-conviction relief in *Reed v. Kelly*, Marion County Circuit Court Case No. 20CV21289, but the court *sua sponte* is holding the case in abeyance pending the Oregon Supreme Court's decision(s) regarding the retroactivity of

*Ramos v. Louisiana*, 140 S. Ct. 1390 (2020). The record from the successive post-conviction proceeding is attached as Resp. Ex. 140-144.

**III.**

Petitioner has no remaining state remedies on the issues he raises in this habeas corpus proceeding. He has, however, procedurally defaulted on certain issues by his failure to timely pursue to completion all his available remedies, and habeas review of those issues should be denied.

**IV.**

Relief should be denied on all the claims in the habeas corpus petition.

DATED September 6, 2022.

Respectfully submitted,

ELLEN F. ROSENBLUM  
Attorney General

s/ Nick M. Kallstrom  
NICK M. KALLSTROM #050023  
Assistant Attorney General  
Trial Attorney  
Tel (503) 947-4700  
Fax (503) 947-4794  
Nick.M.Kallstrom@doj.state.or.us  
Of Attorneys for Respondent

**CERTIFICATE OF SERVICE**

I certify that on September 6, 2022, I served the foregoing ANSWER upon the parties hereto by the method indicated below, and addressed to the following:

Allen T. Reed  
SID # 10546594  
Oregon State Penitentiary  
2605 State Street  
Salem, Oregon 97310

☐ HAND DELIVERY  
☒ MAIL DELIVERY  
☐ OVERNIGHT MAIL  
☐ TELECOPY (FAX)  
☐ E-MAIL

s/ Nick M. Kallstrom  
NICK M. KALLSTROM #050023  
Assistant Attorney General  
Trial Attorney  
Tel (503) 947-4700  
Fax (503) 947-4794  
Nick.M.Kallstrom@doj.state.or.us  
Of Attorneys for Respondent